IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 3122 of 1999

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PRAVINKUMAR NANALAL TRIVEDI - Petitioner(s)

Versus

BHAVNAGAR DISTRICT PANCHAYAT & 3 - Respondent(s)

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Appearance :

MR PREMAL S RACHH for Petitioner No(s).: 1.

MR HS MUNSHAW for Respondent No(s).: 1, 2,3.

RULE SERVED for Respondent No(s).: 4.

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CORAM :HON'BLE MR JUSTICE KS JHAVERI

Date : 05/07/2005

ORAL JUDGMENT

1. This petition is directed against the judgment and award dated 26th August, 1997, passed by the Labour Court, Bhavnagar in Reference [L.C.B.] No. 285 of 1989, whereby the Labour Court has granted reinstatement with continuity in service and without back wages.

2. The short facts of the case are that the petitioner workman was initially appointed as a daily wager from 24th July, 1984. It is the case of the petitioner workman that the respondent Panchayat w.e.f. 1st January, 1989 has orally terminated his services.

2.1. Feeling aggrieved by the said action of the respondent Panchayat, the petitioner workman raised an industrial dispute which was ultimately referred to the Labour Court for adjudication. The Labour Court after appreciating the materials placed before it, passed the impugned award. Hence, this petition.

3. I have heard the learned counsel for the respective parties. Having perused the materials placed on record, it transpires that the Labour Court has not committed any error in ordering to reinstate the respondent workman in service. The Labour Court found that the petitioner workman had completed 240 days work. Thus, I am in complete agreement with the reasonings adopted by and findings arrived at by the Labour Court for awarding reinstatement in service to the petitioner workman.

3.1. However, the Labour Court was justified in denying the back wages *inasmuch* as though the petitioner workman was offered part time job, he had denied the same. Moreover, in view of the principle laid down by the Apex Court that no workmen is entitled to wages if he has not worked, the impugned order of the Labour Court qua the direction of back wages is required to be quashed and set aside.

4. For the foregoing reasons, the petition is partly allowed. The award dated 26th August, 1997, passed by the Labour Court, Bhavnagar in Reference [L.C.B.] No. 285 of 1989, qua the direction with regard to reinstatement is confirmed and rest of the award is quashed and set aside. Rule is made absolute to the aforesaid extent with no order as to costs.

[K.S. JHAVERI, J.]

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